



UNITED STATES PATENT AND TRADEMARK OFFICE

10
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,251	12/31/2003	Gary Wang	BHT-3125-184	6975

7590 05/20/2005

TROXELL LAW OFFICE PLLC
SUITE 1440
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

EXAMINER

BARNEY, SETH E

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/748,251	WANG, GARY	
	Examiner Seth Barney	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12/31/2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-5, 12 and 13 is/are rejected.
 7) Claim(s) 6-11 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 2 to 11 are objected to because of the following informalities: The claims use roman numerals to refer back to previous claims. Appropriate correction is required.
2. Claims 12 and 13 are objected to because of the following informalities: The claims appear to be independent, thus "The" should be --A-- in line 1 of each claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 12 and 13 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,934,820 to Phaup.

Regarding claims 1 and 12, Phaup discloses a swinging mechanism for a lawn sprinkler having a gear operated transmission (42), a limiting connector, a water inlet connector (11), a main driving wheel (48), an adjusting seat (see Figure 2) a plate that switches with flow (65), a switch device (See Figure 2), a retaining pole (64) mounted to the side of the adjusting seat corresponding to the water inlet connector wherein the switch device, located to one end of the retaining pole, share the same axis and is rotated in the same direction with the flow switch plate as to precisely move the flow

switch plate therewith for switching the angle of discharge. See column 5 line 39 to column 6, line 46.

Regarding claim 2, the adjusting seat has a limiting groove. See Figure 2.

Regarding claim 3, the limiting groove has a coupling rod with a pivoting hole disposed therein at the center thereof. See Figure 1.

Regarding claim 4, the limiting groove has protruded guide blocks (69) and symmetrical upper/lower water orifices (84a, 84b).

Regarding claim 5, the switch device is made of a frame body.

Regarding claim 13, the sprinkler is assembled vertically.

Allowable Subject Matter

5. Claims 6-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,938,122 to Heren et al discloses a rotating sprinkler having a flow switch device. U.S. Patent No. 5,758,827 to Van Le et al. discloses a adjustable arc sprinkler. U.S. Patent N. 5,383,600 to Verbera et al. discloses a rotary sprinkler having a flow switch device. U.S. Patent No. 3,038,666 to Dudley discloses a rotating sprinkler.

Art Unit: 3752

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney
Examiner
Art Unit 3752

sb



David A. Scherbel
Supervisory Patent Examiner
Group 3700